

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Crl.MC.No. 2057 of 2007()

ST.2757/2005 of JUDL. MAGISTRATE OF FIRST CLASS-IV, TRIVANDRUM
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PETITIONER: ACCUSED

P.SREEKUMAR, S/O. LATE KAMUKARA
PURUSHOTHAMAN, AGED 48 YEARS, POURNAMI,
TC 5/1666, TEMPLE ROAD, AMBALAMUKKU,
TRIVANDRUM.

BY ADV. SRI.SABU S.KALLARAMOOLA

RESPONDENTS: COMPLAINANT & STATE

1. N.S.SABU,
KAILAS, TC 3/26, MUTTADA P.O.,
THIRUVANANTHAPURAM.
2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2057 of 2007

Dated this the 27th day of June 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. He has come to this court with the prayer that the proceedings against him may be quashed. Though several grounds are raised, the only ground of relevance which has pressed before me at the stage of arguments is that the cheque has not been dishonoured on one of the two grounds recognised under Section 138 of the Negotiable Instruments Act. The learned counsel argues that the cheque was not dishonoured on the ground of insufficiency of funds but was dishonoured on the ground that the accused had transferred his account to another branch. Significantly, there is no contention that there was sufficient amount available in the transferred account to honour the cheque.

2. I am, in these circumstances, satisfied that the petitioner must be relegated to raise his contentions in the trial before the learned Magistrate. I find no reason which can

persuade me to invoke the extraordinary inherent jurisdiction under Section 482 Cr.P.C and quash the proceedings which is in progress against him before the trial court.

3. This petition is, in these circumstances, dismissed. But I make it clear that the dismissal of this petition will not in any way fetter the rights of the petitioner to raise all relevant contentions before the learned Magistrate.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007